

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-1660

Murlin R. Phillips,

Appellant,

v.

Jon A. Kiser, Wayne
County Prosecutor,

Appellee.

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Appeal from the United States
District Court for the Eastern
District of Missouri.

[UNPUBLISHED]

Submitted: December 30, 2004
Filed: January 10, 2005

Before MURPHY, BYE, and SMITH, Circuit Judges.

PER CURIAM.

Missouri inmate Murlin Phillips appeals from the district court's preservice dismissal of his fee-paid 42 U.S.C. § 1983 complaint against Wayne County Prosecutor Jon Kiser.

We conclude that we lack jurisdiction over Phillips's appeal, because the order Phillips challenges is not a final appealable order. See 28 U.S.C. § 1291 (creating appellate jurisdiction over final decisions of district courts); Thomas v. Basham, 931 F.2d 521, 522-24 (8th Cir. 1991) (appellate courts have obligation to raise jurisdictional issues sua sponte "when there is an indication that jurisdiction is

lacking”). Phillips’s complaint included allegations that Kiser had him transferred to a different prison and held in solitary confinement, interfering with his ability to prepare a defense in his state court criminal case. The district court’s order did not address this claim. See Fed. R. Civ. P. 54(b) (“order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties”).

Accordingly, we dismiss this appeal without prejudice. We deny Phillips’s pending motions.
